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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/425,436	10/22/1999	RICHARD ROBERT CAPPADONA	66635	9564
22242	7590	03/09/2004		
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			EXAMINER BECKER, DREW E	
			ART UNIT 1761	PAPER NUMBER

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/425,436

Applicant(s)

CAPPADONA ET AL.

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6 and 8-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-6 and 8-19 is/are allowed.
- 6) ☒ Claim(s) 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/15/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Request for Continued Examination

1. The request filed on January 15, 2004 for an RCE based on parent Application No. 09/425,436 is acceptable and an RCE has been established. An action on the RCE follows.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on January 15, 2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer [Pat. No. 4,330,069] in view of Stephen et al [Pat. No. 4,966,125].

Bauer teaches a cooking device comprising a cooking vessel (column 5, line 58), a lid with a curved shape and rim (Figure 3, 1"), a knob assembly which acts as a holder (Figure 3, 2"), an aperture which passes through the lid and knob assembly and contains a thermometer (Figure 3, 24), a temperature display (Figure 4, 23), a

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temperature sensor above the level of the rim (Figure 3, 22), and a retaining member (Figure 3, 3"a). Bauer does not recite removing the thermometer or the probe having a hollow tubular structure. Stephen et al teach a cooking device having a removable thermometer located in the handle of a lid (Figure 3, 56). It would have been obvious to one of ordinary skill in the art to incorporate the removable thermometer of Stephen et al into the invention of Bauer since both are directed to cooking devices with thermometers in their handles, since the thermometer of Bauer lacks any impediments to its being lifted out of the lid handle (Figure 3), and since Stephen et al teach that a removable thermometer can be used to measure the temperature of the food itself as well as the air temperature within the vessel (column 4, lines 11-16). Although not specifically recited, it would have been obvious to one of ordinary skill in the art that the temperature probe of Bauer would be hollow since thermometers were commonly made with hollow tubular bodies in order to hold a temperature sensitive material such as mercury, a spring, or a thermocouple. Phrases such as "for use in stove top waterless cooking" are merely preferred methods of using the claimed apparatus and as such are not given patentable weight.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hupf et al [Pat. No. 6,004,000] in view of Bauer.

Hupf et al teach a method of waterless cooking by placing food with little or no water into a pan, placing a lid over the pan, heating the bottom of the pan, measuring the temperature, closing the vent, and reducing the heat (column 6, lines 31-44), the lid comprising a knob (Figure 2A, 100), a vent (Figure 2A, 25), and a temperature sensor

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(Figure 1, 150). Hupf et al do not teach a thermometer which extends through the lid. Bauer teaches a lid with a thermometer which extends through the lid (Figure 3, 22). It would have been obvious to one of ordinary skill in the art to incorporate the thermometer of Bauer into the invention of Hupf et al since both are directed to methods of cooking, since Hupf et al already includes a temperature sensor, and since the thermometer of Bauer would provide a more accurate and quicker temperature reading since it directly senses the temperature of the atmosphere within the pot, rather than the temperature of the lid which is in turn heated by the air within the pot, as done by Hupf et al.

Allowable Subject Matter

6. Claims 2-6 and 8-19 are allowed.
7. The following is an examiner's statement of reasons for allowance: the cooking devices of independent claims 2, 8, and 15 define over the prior art of record since the prior art does not teach, suggest, nor render obvious a dual function notch which enables removal of the movable member and acts as a slot to enable the whistle.

Response to Arguments

8. Applicant did not file any arguments with the RCE of January 15, 2004. The previously expressed decisions and reasoning of the last office action are still relied upon.

Conclusion

9. This is an RCE of applicant's earlier Application No. 09/425,436. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

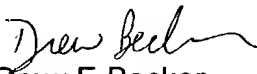
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Thur. 8am-5pm and every other Fri. 8am-4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Drew E Becker
Primary Examiner
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3-3-04